

Department of Community Planning and Economic Development – Planning Division
Zoning Code Text Amendment

Date: December 12, 2011

Initiator of Amendment: Council Member Schiff

Date of Introduction at City Council: July 1, 2011 and July 22, 2011

Ward: All

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Intent of the Ordinance: The intent of the amendment is to eliminate the conditional use permit application requirement for multiple-family residential uses with five or more dwelling units.

Appropriate Section(s) of the Zoning Code: Chapter 530, Site Plan Review, Chapter 546, Residence Districts, Chapter 547, Office Residence Districts and Chapter 548, Commercial Districts (Chapter 549, Downtown Districts and Chapter 551, Overlay Districts are to be returned to the author).

Background: With the exception of the Downtown Districts, multiple-family residential uses with five or more dwelling units require a conditional use permit in all zoning districts, including the Industrial Living Overlay District. This zoning code text amendment proposes to eliminate the need for a conditional use permit for multiple-family residential uses with five or more dwelling units in the residential, office-residential and commercial zoning districts. The Planning Division's recommendation is that multiple-family residential uses with five or more dwelling units proposed to be built in the Industrial Living Overlay District would still require a conditional use permit. In addition, the Planning Division's recommendation is that planned unit developments, including residential planned unit developments, would still require a conditional use permit also.

Between 2006 and 2010, a total of 113 conditional use permits were reviewed for multiple-family residential uses with five or more dwelling units. Of the 113 applications, 104 (92 percent) were approved. The conditional use permit application for multiple-family residential uses with five or more dwelling units often adds relatively little value to the review process. The proposed revisions would reduce the regulatory burden on mixed-use and multiple-family residential developments with five or more dwelling units and would allow staff to focus on more substantive aspects of the development review process.

Under the existing ordinance, there are several requirements that all multiple-family residential uses with five or more dwelling units are required to meet in order to ensure compatibility with nearby properties. Those requirements include but are not limited to maximum density, minimum or maximum floor area, height, setbacks and minimum and maximum parking. In addition, all residential developments of five or more new or additional dwelling units are subject to site plan review, which includes standards related to building placement and design, landscaping, vehicle and pedestrian access, etc. However, the site plan review application can be reviewed administratively if the project does not include any other land use application requiring a public hearing.

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As a result, outside of the Downtown Districts (where all residential uses are permitted), a public hearing is required for any development with five or more units. The site plan and conditional use permit are reviewed concurrently in a public hearing before the City Planning Commission. If the conditional use permit requirement for multiple-family residential uses with five or more dwelling units was eliminated, the site plan review requirement would require a public hearing only if the project or proposal required an additional land use application (i.e. rezoning, variance, CUP for height, etc.). To ensure that all large scale developments would continue to be reviewed through a public process, it is proposed that Table 530-1 Buildings and Uses Subject to Site Plan Review be amended to require City Planning Commission action on site plan review applications for any development of ten or more units. This requirement would be more restrictive than the current ordinance for projects in the Downtown Districts that propose to adaptively reuse existing buildings that would result in five or more new dwelling units.

Logistically, the text amendment will change all of the “C’s” to “P’s” on the use tables where residential uses over five dwelling units are allowed. This change makes all multiple-family residential uses with five or more dwelling units permitted as of right. Please note that this zoning code text amendment does not propose to make any changes to how congregate living uses such as supportive housing, dormitories and nursing homes/assisted living are regulated.

This text amendment was continued from the September 19, 2011, October 17, 2011, and the November 14, 2011, City Planning Commission meetings to allow more time for the City’s neighborhood organizations to analyze and respond to the proposed amendment.

Purpose for the Amendment:

What is the reason for the amendment?

What problem is the Amendment designed to solve?

What public purpose will be served by the amendment?

What problems might the amendment create?

The primary reason for this text amendment is to eliminate the need for a conditional use permit for multiple-family residential uses with five or more dwelling units in the residential, office-residential and commercial zoning districts. The conditional use permit application for multiple-family residential uses with five or more dwelling units often adds relatively little value to the review process. Between 2006 and 2010, 92 percent of all conditional use permit applications for multiple-family residential uses with five or more dwelling units that were reviewed by the City Planning Commission were approved. Of the eight percent that were denied, other applications (i.e., rezoning) were typically required that were not supportable, so therefore the conditional use permits were also denied.

The Planning Division believes that the proposed text amendment will serve the public purpose by allowing staff more time to focus on more substantive aspects of the development review process. In addition, the proposed revisions would reduce the regulatory burden on mixed-use and multiple-family residential developments with five or more dwelling units.

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The Planning Division does not anticipate that the text amendment will lead to significant problems. As noted above, the zoning ordinance will continue to address maximum density, minimum or maximum floor area, height, setbacks and minimum and maximum parking, among other standards. Further, reasonable conditions of approval may be adopted as part of the site plan review application rather than the conditional use permit. The Planning Division is recommending that the City Council continue to require conditional use permits for all multiple-family residential uses with five or more dwelling units in the Industrial Living Overlay District. Residential development in these districts is more likely to be in close proximity to heavy industrial uses. In these instances, there is a public interest in ensuring that the City of Minneapolis retains the regulatory tools to deny developments or include conditions of approval that address potential health and safety impacts.

It should be noted that the amendment would result in collection of less revenue than is currently collected during the review of multiple-family residential uses. The fee for a conditional use permit is dependent on the size of the lot on which the project is to take place. The average fee for a conditional use permit is \$750.00. Between 2005 and 2010 there were 113 conditional use permit applications for multiple-family residential uses with five or more dwelling units submitted. At an average fee of \$750.00 per application this amounts to \$84,750 dollars that was collected. If the conditional use permit for multiple-family residential uses with five or more dwelling units in the residential, office-residential and commercial zoning districts is no longer required, this revenue would not be collected in the future. The City Council recently adopted increases to land use application fees. The Planning Division will continue to evaluate fees and make periodic recommendations to the City Council in the future to ensure appropriate cost recovery.

Timeliness:

Is the amendment timely?

Is the amendment consistent with practices in surrounding areas?

Are there consequences in denying this amendment?

The Planning Division believes that the amendment is timely. The proposed text amendment would reduce the regulatory burden on mixed-use and multiple-family residential developments with five or more dwelling units.

Practices vary widely from one community to another. Planning staff reviewed the St. Paul, Bloomington, and Richfield zoning codes. In both the City of St. Paul and the City of Bloomington, multiple-family dwellings are a permitted rather than conditional use in the zoning districts where they are allowed. In the City of Richfield, multiple-family dwellings over nine dwelling units in the MR-2 Multi-Family Residential District require a conditional use permit and multiple-family dwellings over 20 dwelling units in the MR-3 High Density Multi-Family Residential District require a conditional use permit.

The consequences of denying this text amendment are clear. If denied, conditional use permits would continue to be submitted for multiple-family residential uses in all zoning districts except the Downtown Districts.

Comprehensive Plan:

How will this amendment implement the Comprehensive Plan?

The following Land Use policy of *The Minneapolis Plan for Sustainable Growth* applies:

- **Establish land use regulations to achieve the highest possible development standards, enhance the environment, protect public health, support a vital mix of land uses, and promote flexible approaches to carry out the comprehensive plan (Land Use Policy 1.1).**

Applicable Implementation Steps

1.1.5. Ensure that land use regulations continue to promote development that is compatible with nearby properties, neighborhood character, and natural features; minimizes pedestrian and vehicular conflict; promotes street life and activity; reinforces public spaces; and visually enhances development.

The following Housing policy of *The Minneapolis Plan for Sustainable Growth* applies:

- **Grow by increasing the supply of housing (Housing Policy 3.1).**

Applicable Implementation Steps

3.1.3. Continue to streamline city development review, permitting, and licensing to make it easier to develop property in the City of Minneapolis.

Eliminating the need for a conditional use permit would reduce the regulatory burden on mixed-use and multiple-family residential developments with five or more dwelling units. Although this text amendment proposes to eliminate the need for a conditional use permit for multiple-family residential uses with five or more dwelling units it also proposes to require City Planning Commission action on site plan review applications for any development of ten or more units which would evaluate standards related to building placement and design, landscaping, vehicle and pedestrian access, etc.

Recommendation of the Community Planning and Economic Development--Planning Division:

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission and City Council adopt the above findings and **approve** the zoning code text amendment, amending Chapters 530, 546, 547 and 548. Staff further recommends that Chapters 549 and 551 be **returned** to the author.